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Attorneys for Plaintiffs and all others similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CATHERINE GELLIS, individually and on behalf of all others similarly situated,

Plaintiff,

v.

VERIZON COMMUNICATIONS, INC., a
Delaware corporation; VERIZON WIRELESS, an
unincorporated association; CELLCO
PARTNERSHIP, an unincorporated association;
and DOES 1-100, inclusive,

Defendants.

Case No. C 07-03679 JSW

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE**

Date: November 2, 2007

Time: 9:00 a.m.

Place: Courtroom 2

The Honorable Jeffrey S. White

Plaintiff Catherine Gellis, by and through her attorneys, hereby requests the Court to
take judicial notice pursuant to Federal Rule of Evidence 201, the following facts:

1. Plaintiff's September 13, 2006 Verizon Wireless billing statement, attached hereto as Exhibit 1, which reads in relevant part: "A late payment charge applies for unpaid balances. The charge is the greater of \$5 or 1.5% per month or as permitted by law, and are *liquidated damages*, not a penalty. Our records indicate your account is past due. Please send payment now to avoid service disruption."

The attached September 13, 2006 Verizon Wireless billing statement and the contents therein are not subject to reasonable dispute and are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. (Fed. R. Evid. 201). The billing statement issued by defendant Verizon Wireless identifies plaintiff by name, phone number and account number, and corresponds to the information identified in the Calling Plan and Customer Agreement, Exhibits A and C to plaintiff's First Amended Complaint ("FAC"). In addition, defendant's Customer Agreement specifically refers to the bills it issues to customers. (FAC Ex. B at p.4-5). Furthermore, the contents of the bill cannot reasonably be questioned, specifically that it contains the above statement regarding liquidated damages. A matter that is properly the subject of judicial notice may be considered along with the complaint when deciding a motion to dismiss for failure to state a claim. (Hittner, Schwarzer, J. Tashima & Wagstaffe, *The Rutter Group: Cal. Practice Guide: Federal Civil Procedure Before Trial*, ¶9:212.15, citing *MGIC Indem. Corp. v. Weisman* (9th Cir. 1986) 803 F2d 500, 504). Therefore, plaintiff requests that this Court grant plaintiff's request for judicial notice of her September 13, 2006 Verizon Wireless billing statement, the fact that defendant Verizon Wireless made the statement regarding liquidated damages therein, and consider these matters along with First Amended Complaint in deciding this motion.

Dated: September 14, 2007

CHAVEZ & GERTLER LLP
BRAYTON PURCELL LLP

By: /s/ _____
Peter B. Fredman
Attorneys for Plaintiff

EXHIBIT 1

verizonwirelessP.O. BOX 96088
BELLEVUE, WA 98009

September 13, 2006

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Account number
870162630-00001
Invoice number
2073888453**To Make A Payment**Online: verizonwireless.com (My Account)
Phone: #PMT (#768) or #BAL (#225)
from your wireless phone. Airtime free.
Mail Payment: Verizon Wireless
PO Box 9622
Mission Hills, CA 91346-9622**Contact Us**Online: verizonwireless.com
Phone: *611 or 1-800-922-0204 Airtime free.
Mail Letters: Verizon Wireless
Customer Service
PO Box 96082
Bellevue, WA 98009-9682

60029285 01 MB 0.325 "AUTO TO 0 4513 02448-352602 1 34 E NCNV1304

CATHERINE R GELLIS
55 THATCHER ST APT 2
BROOKLINE, MA 02446-3526**Verizon Wireless news****Is Your Family IN?**

Find out how to get Unlimited IN Calling and Unlimited IN Messaging to other Verizon Wireless customers for all lines on your account. Call 1-866-396-7444 for details.

Be the First to KnowGo to www.verizonwireless.com/email and enter your email address to receive alerts on exclusive online offers, promotions and the latest information on products and services from Verizon Wireless.**Coming Soon**

Thanks to customer input, your bill is getting a new look. Your new statement will include a step-by-step guide on how to read your bill.

Account summary**Previous charges**

Previous balance	\$45.57
Payment - no payment received	.00
Balance forward	\$45.57

Current charges

Account charges & credits	5.00
Includes late fee of \$5.00	
Monthly charges	39.99
Usage charges	.00
Verizon Wireless surcharges and other charges and credits	1.30
Taxes, governmental surcharges and fees	2.36
Total current charges	\$48.65

Total Amount**\$94.22***A late payment charge applies for unpaid balances. The charge is the greater of \$5 or 1.5% per month or as permitted by law, and are liquidated damages, not a penalty.**Our records indicate your account is past due. Please send payment now to avoid service disruption. To confirm recent payments or pay your bill, dial #PMT and SEND airtime free from your wireless phone or login to My Account at VerizonWireless.com.***verizon**wireless**Payment coupon**Please return this portion with your check or money order made payable to **Verizon Wireless**.CATHERINE R GELLIS
55 THATCHER ST APT 2
BROOKLINE, MA 02446-3526Bill date September 13, 2006 VW
Account number 870162630-00001
Invoice number 2073888453

Balance forward	\$45.57
Current charges	\$48.65
PAYMENT DUE IMMEDIATELY	\$94.22

**MAKE CHECK PAYABLE TO
VERIZON WIRELESS**

Amount enclosed

\$ PO BOX 9622
MISSION HILLS, CA 91346-9622

Check here and fill out the back of this slip if your billing address has changed or you are adding or changing your email address.

2073888453010870162630000010000048650000094222



Bill date September 13, 2006
 Account number 870162630-00001
 Invoice number 2073888453

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Billing Information

Verizon Wireless' Surcharges includes charges to recover or help defray costs of taxes and of governmental charges and fees imposed on us, including a Regulatory Charge (which helps defray costs of various regulatory mandates, including government number administration and license fees) and a Federal Universal Service Charge (and, if applicable, a State Universal Service Charge) to recover costs imposed on us by the government to support universal service, and may include other charges also related to our governmental costs. It also includes an Administrative Charge, which helps defray certain costs we incur, currently including (i) charges we, or our agents, pay local telephone companies for delivering calls from our customers to their customers, (ii) fees and assessments on network facilities and services, and (iii) certain costs and charges associated with proceedings related to new cell site construction. Please note that these are Verizon Wireless Charges, not taxes. These charges, and what's included, are subject to change from time to time.

Verizon Wireless' Other Charges and Credits includes charges for products and services, and credits owing.

Taxes, Governmental Surcharges and Fees includes sales, excise and other taxes and governmental surcharges and fees that we are required by law to bill customers. These taxes, surcharges and fees may change from time to time without notice.

Inquiries/Requests - Most customer payments are processed using an automated system. This means that inquiries or requests you include with or on your payment won't reach us. Please send your correspondence to the address on page 1 (see Mail Letters) or call our Customer Service Department at 1(800) 922-0204 or *611 from your wireless phone. If you're trying to resolve a dispute by sending us payment of less than the full amount we've billed you, please note that your Customer Agreement requires you to pay in full despite any disputes, and informs you that we won't honor limiting notations you make on or with a payment.

Customer Information**Customer Alert**

Effective September 1, we will complete an update of our procedures that will, in general, apply taxes, fees, governmental surcharges and Verizon Wireless Surcharges according to the address you have on file with us. Please note, Verizon Wireless Surcharges are our charges, not taxes. Please see the "Our Rights To Make Changes" section on your Customer Agreement.

Important Information Regarding Electronic Fund Transfers

When you send a check to pay your bill, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process this transaction as a check. If you wish to be excluded from the process, please call 1-866-544-0401.

Automatic Payment Enrollment for Account: 870162630-00001**CATHERINE R GELLIS**

By signing below, you authorize Verizon Wireless to electronically debit your bank account each month for the total balance due on your account. The check you send will be used to setup Automatic Payment. You will be notified each month of the date and amount of the debit 10 days in advance of the payment. I understand and accept these terms. This agreement does not alter the terms of your existing Customer Agreement. I agree that Verizon Wireless is not liable for erroneous bill statements or incorrect debits to my account. To withdraw your authorization you must call Verizon Wireless. Check with your bank for any charge.
 Check this box. 2. Sign name in box below, as shown on the bill and date. 3. Return this slip with your check for this month's payment.

By changing your billing address for Account: 870162630-00001. Use this space or login to My Account at verizonwireless.com to change the mailing address where we send your bill. If we do not have your most recent email address, provide it below and we'll use it to tell you important information about our Verizon Wireless service. Allow 2 billing cycles for the address change to take effect.

New address

City

State/Zip

Daytime phone ()

Evening phone ()

Email

PLACE OF PRIMARY USE (PPU)

The home or business mailing address indicated to the left is for the person using the phone(s) and is the person's residential street address or primary business street address YES NO. If No or for multi-line accounts with more than one PPU address, please contact our Customer Service Department or visit our website to change user's PPU address.